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The Bug, the Law And Senator Long

By Marquis Childs

BIG BROTHER has become big business and if this is not 1984 it is close to it. Snooping by electronic devices coming in sizes as small as an aspirin tablet is today an industry with a turnover in hundreds of millions of dollars.

The dogged inquiry directed by Sen. Edward V. Long of Missouri is dredging up some astonishing evidence on the extent of snooping in both Government and so-called private life. Whether the right of the citizen to be free from invasion of his privacy as guaranteed by the Constitution has any meaning today is one of the questions Long and his staff are considering in trying to draft legislation to present to the next Congress.

At the bottom of the snooping scale are companies ready to contract to bug your competitor and then they will take a contract with the competitor to insure him against electronic detection of trade secrets or business plans. Senator Long discovered by subpoenaing company records that the Agency for International Development had bought electronic devices to give to foreign countries along with technical help to install and operate them. When David Bell, who recently resigned as director of AID, heard of this he issued an order canceling such purchases and forbidding any use of funds for this purpose.

So far as Government is concerned Senator Long concentrated on the Bureau of Internal Revenue and the Post Office Department. He has been criticized for not going into the use by the FBI of wiretaps on telephone lines and other listening devices. His response is that the FBI makes the case in each instance that national security is involved.

This hardly applies, however, to the Las Vegas gambling and crime investigation which is, in turn, related to the Bobby Baker case. Senator Long was fearful in this instance that if he publicized the widespread use of wiretaps by the FBI in the gambling center he could be accused of spoiling the case the agency was trying to make. With the disclosure by Solicitor General Thurgood Marshall that the FBI was guilty of illicit eavesdropping on Fred B. Black Jr., a Washington lobbyist convicted of income tax evasion, the reason for such restraint no longer existed.

But here high stakes along with high reputations are involved if, as the cynics now believe, Baker will go free on the ground of wiretapping and invasion of privacy. The Department of

Justice denies that taps were used in the Baker case. Sen. Robert F. Kennedy, then Attorney General, said on television that he had not ordered wiretapping. While this is believed to be technically true those familiar with the whole squalid tangle believe that a Kennedy order to the Commissioner of Internal Revenue and the FBI sanctioned the use of electronic devices.

Drafting legislation to put a check on snooping will take the wisdom of a Solomon. Law-enforcement authorities justify their use of listening devices by pointing out that organized crime with its large resources employs every kind of advanced technique to defeat the law and they must, therefore, follow suit. The troubling question is whether by imposing too strong an inhibition on the use of electronic techniques the law will not be handicapped in combating crime.

A section of the communications act is the only statute that governs wiretapping today. Divulging information obtained by a tap is a crime. Senator Long's investigation has shown that Federal law-enforcement officers get around this prohibition. Disclosure to another agent is not regarded as a violation of the law and the second agent may go into court and testify to information obtained this way.

Should the manufacturer of snooping devices be licensed under Federal law and required to show how and where his wares are used? Can a Federal statute be devised to restrain the use of snooping within the constitutional guarantee of the right of privacy against unlawful invasion? Should such trick devices as the bug in the olive in the martini be outlawed? These are only a few of the questions to be answered before a remedy is proposed early in the new Congress. At the very least the jurisdiction of the Federal Government should be clarified—not only for the protection of the citizen but for those agencies that want to stay within the law.

The cost of "security" is becoming an increasing burden on industry. The president of a large California corporation found that not only his office and his board room but his private lavatory were bugged. The bill to insure his privacy was in five figures. This is a sick form of behavior unbecoming to a free society.

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